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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,874	05/14/2001	Patrick Callahan	CCS-101	9918
20028	7590	05/05/2006	EXAMINER	
Lipsitz & McAllister, LLC 755 MAIN STREET MONROE, CT 06468			KESACK, DANIEL	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/854,874	<b>Applicant(s)</b> CALLAHAN ET AL.	
	<b>Examiner</b> Dan Kesack	<b>Art Unit</b> 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/20/2001</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

1. This application has been reviewed. Original claims 1-27 are currently pending.

The rejections are as stated below.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 and 14 are rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility. As claimed, claims 1 and 14 result in the system selecting at least one potential vendor. Without any further use of the selection, the system and method, as claimed, does not produce a tangible result, because no usable output is produced. Without a tangible result, the system or method is not considered useful, and is therefore unpatentable.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1-4, 12, 14, 15, 17, 18, 27 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Walker et al., U.S. Patent No. 5,794,207.

Claim 1, 14, 15, Walker discloses a method and apparatus for effectuating bilateral buyer-driven commerce, comprising a computer processor (figure 1, #205), a data store of vendors accessible to said computer processor (figure 1, #260), a data store of vendor parameters relating to said vendors and accessible to said computer processor for use in selecting vendors for a project (column 18 lines 26-33), a user interface associated with said processor for enabling the user to specify requirements for said project (column 15 line 60 – column 16 line 11), and applying rules to select at least one potential vendor for said project based on the vendor parameters and the project requirements specified by said user (column 18 lines 15-33).

Claims 2, 3, 17, 18, Walker teaches communicating the project requirements to at least one selected vendor for solicitation of a bid on the project, and emailing a link to

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the vendor, said link directing said vendor to a web page for accessing said project requirements (column 19 lines 5-12).

Claim 4, Walker teaches one selected vendor submitting a bid to the system via said webpage (column 22 lines 40-51).

Claims 12, 27, Walker teaches enabling an authorized administrator to manage the specification process, the vendor data store, the user interface, and rules to be applied (column 17 lines 48-64 and column 19 lines 13-28)

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
7. Claims 5-8, 11, 13, 16, 19-23, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker, as applied to claims 1 and 2 above, and further in view of Gindlesperger, U.S. Patent No. 6,397,197.

Claims 5-8, 11, 13, 16, 19-23, 26, Walker fails to teach receiving bids from a plurality of selected vendors, the rule based system applying rules to recommend one of said vendors to complete the project based on the received bids, basing recommendations on submitted vendor parameters, permitting a user to accept or override the system recommendation, and notifying the bidders of the process outcome.

Claims 5, 6, 19, 20, 21, Gindlesperger teaches receiving a plurality of responding bid data from vendors and applying rules using vendor and user submitted criteria to recommend a vendor based on said submitted criteria (column 5 lines 11-35). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Walker to include these teachings of Gindlesperger because Gindlesperger teaches the benefit of enhanced pricing comparison, allowing the user to identify the most beneficial vendor.

Claims 7, 11, 16, 22, 26, Gindlesperger teaches permitting the user to accept or override the vendor recommendation (column 8 lines 3-20). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the

teachings of Walker to include these teachings of Gindlesperger because it is desirable that the user give the final authorization on which vendor to accept.

Claim 8, 23, Gindlesperger teaches notifying vendors of the outcome of the bidding process (column 5 lines 41-43). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Walker to include these teachings of Gindlesperger because Walker teaches vendors bidding based on the bids of competitors, resulting in the best competitive price for the buyer.

Claim 13, Gindlesperger teaches generating reports relating to said project responsive to said user interface (column 8 lines 52-63). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Walker to include these teachings of Gindlesperger it is beneficial that a user track the progress of active projects.

8. Claims 9, 10, 24, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker and Gindlesperger, as applied to claims 1, 2, 5, 14, 17, 20 above, and further in view of eBay ([www.ebay.com](http://www.ebay.com) dated 3/1/2000 from the Wayback Machine).

Claims 9, 10, 24, 25, Walker and Gindlesperger fail to teach receiving input from said user interface as to the quality of the project when completed by the vendor, and using said input in vendor selection.

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Claims 9, 10, 24, 25, eBay teaches a feedback system where a user leaves a comment as to the experience in dealing with a specified seller, and where users base the decision to transact with sellers based on the seller's resulting feedback rating. It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Walker and Gindlesperger to include the feedback system of eBay because eBay teaches it enables users to check the reputation of a seller to ensure the quality of product and service before a buyer enters into a transaction, resulting in more secure and safe transactions, and is a desirable feature of any transaction.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Carlton-Foss, U.S. Patent No. 6,647,373 discloses a system and method for processing and transmitting electronic reverse auction information. Walker, U.S. Patent No. 6,085,169 discloses a conditional purchase offer management system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Kesack whose telephone number is 571-272-5882. The examiner can normally be reached on M-F, 8am-4:30pm.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 571-272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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